

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

LUCI MAE WINKLER,

Plaintiff,

v.

DEPARTMENT OF HUMAN SERVICES,  
CHILD WELFARE DIVISION,

Defendant.

No. 1:13-cv-1054-CL

**ORDER**

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**PANNER, District Judge:**

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (8th Cir. 1983).

In her amended complaint, pro se plaintiff Luci Mae Winkler brings claims against the Oregon Child Welfare Division, seeking "immediate return of custody" of her minor daughter, the termination of the state employees involved in the custody decision, additional training for the remaining state employees, and criminal charges against the father. Plaintiff also seeks \$200,000 in damages.

I agree with the Report and Recommendation that this action must be dismissed. Federal courts do not exercise jurisdiction over actions that primarily concern the status of parent and child. See Coats v. Woods, 819 F.2d 236, 237 (9th Cir. 1987). Federal jurisdiction is not appropriate because the state has a strong interest in domestic relations, state courts are better equipped to address child custody disputes, and a federal ruling on the child's custody could conflict with a state court decree if the state exercises continuing supervision. See Peterson v. Babbitt, 708 F.2d 465, 466 (9th Cir. 1983) (per curiam). To the extent plaintiff claims violations of her federal constitutional rights, state courts are competent to hear those claims. See id.

I disagree with the Report and Recommendation on one issue, that dismissal be with prejudice. Because this court declines to exercise subject matter jurisdiction over the action, dismissal is without prejudice. See Csibi v. Fustos, 670 F.2d 134, 138 (9th Cir. 1982).

#### CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#13) is

adopted. The amended complaint (#12) is dismissed.

IT IS SO ORDERED.

DATED this ~~26~~<sup>27</sup> day of November, 2013.

A handwritten signature in cursive script, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER  
U.S. DISTRICT JUDGE